
HOUSE BILL No. 1044

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-26-5-3.

Synopsis: Immunity for court clerks for protective orders. Provides immunity from civil damages for circuit court clerks and their designees when providing clerical assistance to persons requesting orders for protection.

Effective: July 1, 2003.

Foley, Lawson L

January 7, 2003, read first time and referred to Committee on Judiciary.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1044

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-26-5-3, AS ADDED BY P.L.133-2002,
2 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 3. (a) The division of state court administration
4 shall:

5 (1) develop and adopt:

6 (A) a petition for an order for protection;

7 (B) an order for protection, including:

8 (i) orders issued under this chapter;

9 (ii) ex parte orders; and

10 (iii) no contact orders under IC 31 and IC 35;

11 (C) a confidential sheet;

12 (D) a notice of modification or extension for an order for
13 protection;

14 (E) a notice of termination for an order for protection; and

15 (F) any other uniform statewide forms necessary to maintain
16 an accurate registry of orders; and

17 (2) provide the forms under subdivision (1) to the clerk of each



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1 court authorized to issue the orders.

2 (b) In addition to any other required information, a petition for an
3 order for protection must contain a statement listing each civil or
4 criminal action involving:

5 (1) either party; or

6 (2) a child of either party.

7 (c) The following statements must be printed in boldface type or in
8 capital letters on an order for protection:

9 VIOLATION OF THIS ORDER IS PUNISHABLE BY
10 CONFINEMENT IN JAIL, PRISON, AND/OR A FINE.

11 IF SO ORDERED BY THE COURT, THE RESPONDENT IS
12 FORBIDDEN TO ENTER OR STAY AT THE PETITIONER'S
13 RESIDENCE, EVEN IF INVITED TO DO SO BY THE
14 PETITIONER OR ANY OTHER PERSON. IN NO EVENT IS
15 THE ORDER FOR PROTECTION VOIDED.

16 PURSUANT TO 18 U.S.C. 2265, THIS ORDER FOR
17 PROTECTION SHALL BE GIVEN FULL FAITH AND CREDIT
18 IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE
19 ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT
20 STATE OR TRIBAL LAND. PURSUANT TO 18 U.S.C. 922(g),
21 IT IS A FEDERAL VIOLATION TO PURCHASE, RECEIVE,
22 OR POSSESS A FIREARM WHILE SUBJECT TO THIS
23 ORDER.

24 (d) The clerk of the circuit court, or a person or entity designated by
25 the clerk of the circuit court, shall provide to a person requesting an
26 order for protection:

27 (1) the forms adopted under subsection (a);

28 (2) all other forms required to petition for an order for protection,
29 including forms:

30 (A) necessary for service; and

31 (B) required under IC 31-17-3; and

32 (3) clerical assistance in reading or completing the forms and
33 filing the petition.

34 Clerical assistance provided by the clerk or court personnel under this
35 section does not constitute the practice of law. The clerk of the circuit
36 court may enter into a contract with a person or another entity to
37 provide this assistance. **A person who in good faith performs the**
38 **duties the person is required to perform under this subsection is**
39 **not liable for civil damages that might otherwise be imposed on the**
40 **person as a result of the performance of those duties unless the**
41 **person commits an act or omission that amounts to gross**
42 **negligence or willful and wanton misconduct.**

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- 1 (e) A petition for an order for protection must be:
- 2 (1) verified or under oath under Trial Rule 11; and
- 3 (2) issued on the forms adopted under subsection (a).
- 4 (f) If an order for protection is issued under this chapter, the clerk
- 5 shall comply with IC 5-2-9.

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